

KEVIN V. RYAN (CSBN 118321)
United States Attorney

MARK L. KROTOSKI (CSBN 138549)
Chief, Criminal Division

ANDREW M. SCOBLE (CSBN 124940)
ALEXIS HUNTER (NYSBN 3939824)
Assistant United States Attorneys

450 Golden Gate Ave.
San Francisco, California 94102
Telephone: (415) 436-7249
Fax: (415) 436-7234
E-Mail: andrew.scoble@usdoj.gov
alexis.hunter@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
VINCE MING WAN,)
a/k/a Nelson Wan,)
a/k/a Phillip Hoang,)
ALEX WAI SHING FONG,)
PHUNG VAN NGUYEN,)
KITTY YEE LI,)
JAY YUAN,)
MICHAEL YUK LAM LEUNG, and)
EDWIN GORDON TOY,)
)
Defendants.)

No.: CR 06-0426 SI

[PROPOSED] ORDER EXCLUDING
TIME FROM SPEEDY TRIAL ACT
COMPUTATION

All defendants except Phung Van Nguyen appeared before the Court on October 20, 2006 at 11:00 a.m. Phung Van Nguyen has never been arrested and is still being sought by the government as a fugitive.

//

1 At the hearing, the parties jointly requested a continuance of this case until
2 December 15, 2006 at 11:00 a.m. Defense counsel noted that they have had difficulty
3 obtaining all of the discovery in usable format, and that some of it was obtained only the
4 day before the hearing from the copy center at which it had been lodged. Accordingly,
5 defense counsel requested a further status date on December 15, 2006, to allow them to
6 review pertinent discovery and determine the pretrial motions that should be brought.
7 The government did not oppose the request.

8 The parties further agreed in open Court, with their attorneys' concurrence, that
9 this case should be declared legally and factually complex, and that it is appropriate to
10 exclude from the otherwise applicable Speedy Trial Act computation the period from the
11 inception of the case through December 15, 2006. Counsel for defendant Alex Wai Shing
12 Fong (who is in custody) concurred, but noted that the defendant expects to file a bail
13 appeal in the near future.

14 As the parties have represented, the underlying investigation pertains to three
15 related prosecutions which stem from a single wiretap investigation. These three cases in
16 the aggregate involve voluminous discovery (up to 150,000 pages, taking into account
17 seized computer data), include wiretap materials which pertain to some defendants in this
18 case, and involve search warrants and investigations by a number of local, state, and
19 federal law enforcement agencies. Further, the instant case encompasses seven
20 defendants. Accordingly, the parties agreed that the period from October 20, 2006
21 through and including December 15, 2006 should be excluded from the otherwise
22 applicable Speedy Trial Act computation, because the legal and factual complexity
23 renders it unreasonable to expect adequate preparation for pretrial proceedings and for the
24 trial within the otherwise applicable time limits set forth in the Speedy Trial Act.

25 Based upon the above-described representations and the parties' agreement in open
26 Court, THE COURT FINDS THAT the ends of justice served by granting a continuance
27 from October 20, 2006 through and including December 15, 2006 outweigh the best
28 interest of the public and the defendants in a speedy trial, and that the case is so legally

1 and factually complex, due to the nature of the prosecution (including the volume and
2 range of discovery, and the nature of the underlying investigation) and the number of
3 defendants, that it is unreasonable to expect adequate preparation for pretrial proceedings
4 and for the trial within the otherwise applicable time limits set forth in the Speedy Trial
5 Act, within the meaning of 18 U.S.C. § 3161(h)(8)(A) & (B)(ii).

6 Accordingly, THE COURT ORDERS THAT:

7 1. This case is continued to December 15, 2006 at 11:00 a.m. for
8 further status and setting of motions.

9 2. The period from October 20, 2006 through and including December
10 15, 2006 is excluded from the otherwise applicable Speedy Trial Act computation,
11 pursuant to 18 U.S.C. § 3161(h)(8)(A) & (B)(ii).

12 IT IS SO ORDERED.

13
14 DATED:



HON. SUSAN ILLSTON
United States District Judge